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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Glenn Liou,

10 Plaintiff,

11 v.

12 CyraCom International Incorporated,

13 Defendant.
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No. CV-15-01167-PHX-DGC

ORDER

15 Plaintiff Glenn Liou moves for summary judgment on two facts. Doc. 39.
16 Defendant has filed a response (Doc. 42), but Plaintiff has not filed a reply, and the time
17 for replying has passed. Neither party requests oral argument.

18 Plaintiff filed this case in June 2015, alleging that Defendant CyraCom, his former
19 employer, discriminated against him because of his age in violation of the Age
20 Discrimination in Employment Act of 1967 and the Civil Rights Act of 1991. Doc. 1.
21 Plaintiff seeks summary judgment on two facts: (1) he never expressed disagreement with
22 Defendant's "verbatim interpretation" policy, and (2) his "needs improvement" rating
23 was reversed. Doc. 39.

24 A party seeking summary judgment "bears the initial responsibility of informing
25 the district court of the basis for its motion, and identifying those portions of [the record]
26 which it believes demonstrate the absence of a genuine issue of material fact." *Celotex*
27 *Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Summary judgment is appropriate if the
28 evidence, viewed in the light most favorable to the nonmoving party, shows "that there is

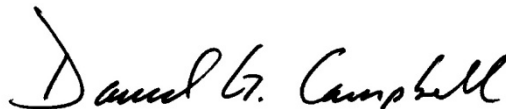
1 no genuine dispute as to any material fact and the movant is entitled to judgment as a
2 matter of law.” Fed. R. Civ. P. 56(a).

3 Defendant contends that Plaintiff expressed disagreement with the verbatim
4 interpretation policy in an email dated May 14, 2014. Doc. 43-4. An affidavit submitted
5 by Eduardo Alvarez, the Contact Center Manager at CyraCom in Phoenix and Plaintiff’s
6 supervisor, supports Defendant’s contention. Doc. 43-2, ¶ 5. Mr. Alvarez also asserts in
7 his affidavit that Plaintiff’s “needs improvement” rating was not rescinded. *Id.*, ¶ 6. The
8 affidavit by Mr. Alvarez creates an issue of fact regarding the matters addressed in
9 Plaintiff’s motion, and the Court therefore will deny the motion.

10 **IT IS ORDERED:**

- 11 1. Plaintiff’s motion for summary judgment (Doc. 39) is **denied**.
- 12 2. Defendant’s motion to strike (Doc. 46) is **denied** as moot.
- 13 3. The Court notes that Plaintiff may not file another motion for summary
14 judgment without first obtaining leave of Court. *See* Case Management
15 Order (Doc. 31), ¶ 7(b).

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17 Dated this 24th day of February, 2016.

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David G. Campbell
United States District Judge
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